

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 167

Short Title: Healthy Mother Healthy Child. (Public)

Sponsors: Senators Smith and Foushee (Primary Sponsors).

Referred to: Rules and Operations of the Senate

February 28, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CODIFY THE NORTH CAROLINA DEPARTMENT OF PUBLIC SAFETY
3 POLICY THAT PROHIBITS THE RESTRAINT OF PREGNANT PRISONERS AND
4 DETAINEES AND TO APPROPRIATE FUNDS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Chapter 15A of the General Statutes is amended by adding a new
7 Article to read:

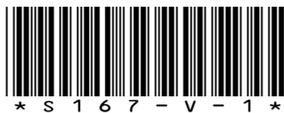
8 "Article 87.

9 "Treatment of Pregnant Prisoners and Detainees.

10 "§ 15A-1391. Definitions.

11 The following words have the listed meaning in this Article:

- 12 (1) Correctional institution. – Any unit of the State prison system, local
13 confinement facility, juvenile detention facility, or other entity under the
14 authority of any State or local law enforcement agency that has the power to
15 detain or restrain a person under the laws of this State.
- 16 (2) Corrections official. – The official that is responsible for oversight of a
17 correctional institution or that official's designee.
- 18 (3) Detainee. – Any person detained under the immigration laws of the United
19 States at any correctional institution.
- 20 (4) Extraordinary circumstance. – There has been an individualized determination
21 that restraints are necessary to prevent the woman from injuring herself or
22 others and cannot reasonably be restrained by other means, including the use
23 of additional personnel.
- 24 (5) Labor. – The period of time before a birth during which contractions are of
25 sufficient frequency, intensity, and duration to bring about effacement and
26 progressive dilation of the cervix.
- 27 (6) Postpartum period. – The eight weeks following the birth of the baby.
- 28 (7) Postpartum recovery. – As determined by a woman's physician or obstetrical
29 provider, the period immediately following delivery, including the entire
30 period a woman is in the hospital or infirmary after giving birth.
- 31 (8) Prisoner. – Any person incarcerated or detained in any facility who is accused
32 of, convicted of, sentenced for, or adjudicated delinquent for violations of
33 criminal law or the terms and conditions of parole, probation, pretrial release,
34 or diversionary program.
- 35 (9) Restraints. – Any physical restraint or mechanical device used to control the
36 movement of a prisoner or detainee's body or limbs.



1 **"§ 15A-1392. Restraint of prisoners and detainees.**

2 (a) A correctional institution shall not use restraints on a prisoner or detainee known to
3 be pregnant, including during labor, transport to a medical facility, delivery, postpartum
4 recovery, and the postpartum period, unless the corrections official makes an individualized
5 determination that the prisoner or detainee presents an extraordinary circumstance. Under no
6 circumstances shall leg or waist restraints be used on any prisoner or detainee who is in labor or
7 delivery.

8 (b) If the physician, obstetrical provider, nurse, or other health professional treating the
9 prisoner or detainee requests that restraints not be used, the corrections officer accompanying the
10 prisoner or detainee shall immediately remove all restraints.

11 (c) If restraints are used on a prisoner or detainee pursuant to subsection (a) of this
12 Section:

13 (1) The type of restraint applied and the application of the restraint shall be
14 accomplished in the least restrictive manner necessary.

15 (2) The corrections official shall make written findings within 10 days as to the
16 extraordinary circumstance that dictated the use of the restraints. The findings
17 shall be retained by the correctional institution for at least five years and be
18 made available for public inspection, except that no individually identifying
19 information of any prisoner or detainee shall be made public under this Article
20 without the prisoner or detainee's prior written consent.

21 **"§ 15A-1393. Notification.**

22 All correctional facilities in the State shall inform all prisoners and detainees within the
23 facilities' custody of the provisions of this Article."

24 **SECTION 2.** There is appropriated from the General Fund to the Department of
25 Public Safety, Division of Adult Correction and Juvenile Justice, the sum of two hundred fifty
26 thousand dollars (\$250,000) for fiscal years 2019-2020 and 2020-2021 to be allocated to policy
27 implementation, education, and training of the procedures required in Section 1 of this act.

28 **SECTION 3.** Section 2 of this act becomes effective July 1, 2019. The remainder of
29 this act becomes effective October 1, 2019.